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U.S. DISTRICT COURT
DISTRICT OF MASS.
Facsimile: (212) 446-4999

VIA HAND DELIVERY TO CHAMBERS

Hon. Patti B. Saris
United States District Court
District of Massachusetts
1 Courthouse Way
Boston, Massachusetts 02210

Re: The City of New York, et al. v. Abbott Laboratories, Inc., et al.
MDL 1456, Civ. Action No. 01-CV-12257-PBS

Dear Judge Saris:

I represent Boehringer Ingelheim Roxane, Inc. (f/k/a Roxane Laboratories, Inc.) ("Roxane") in the above-titled action. I write with regard to a matter of extreme urgency concerning this Court's Memorandum and Order entered yesterday, January 27, 2010, resolving the parties' cross-motions for summary judgment on FUL allegations (the "Jan. 27 Mem. and Order").

On page two, footnote 1 of the Jan. 27 Mem. and Order, the Court listed the 13 defendants against whom the plaintiffs brought their motion and included Roxane on the list. The Court went on to note that one of the companies listed, Ethex, "has subsequently settled."

Like Ethex, Roxane has also settled with plaintiffs and did so during the pendency of the motions addressed in the Jan. 27 Mem. and Order. On November 4, 2009, this Court entered an Order of Dismissal in this case which dismissed with prejudice all claims against Roxane. (Dkt. # 6646-2). The inclusion of Roxane in the Jan. 27 Mem. and Order was therefore in error.

Given the possible risk of improper use against Roxane of the Court's findings in the Jan. 27 Mem. and Order, Roxane respectfully asks the Court to correct the error and enter a new Memorandum and Order as soon as possible, and before the Jan. 27 Mem. and Order is published. Roxane requests that the Court enter a new Memorandum and Order, rather than issuing a corrective Docket Entry, to avoid confusion in other jurisdictions where this Court's

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opinions are reviewed regularly. We make this request with due consideration of the additional burden this request imposes on the Court and its staff.

Specifically, Roxane would ask that the Court:

- Change the last sentence on p. 2, footnote 1 to read: "Ethex and Boehringer Ingelheim Roxane, Inc. (f/k/a Roxane Laboratories, Inc.) have subsequently settled."
- Delete all other references to Roxane throughout the Mem. and Order, specifically:
 - p. 2: "206% for Roxane;"
 - p. 13, footnote 9: "Roxane 56.1 at ¶ 3;"
 - p. 13, footnote 10: "Roxane 56.1 at ¶¶ 5-8;"
 - p. 14, footnote 11: "Roxane 56.1 at ¶¶ 9-11, 15;"
 - p. 14, footnote 12: "Roxane 56.1 at ¶¶ 12-14, 16;"
 - p. 14, footnote 13: "Roxane 56.1 at ¶¶ 9-16;"
 - p. 15, footnote 14: "Roxane 56.1 at ¶ 3;"
 - p. 15, footnote 15: "Roxane 56.1 at ¶ 4;"

I spoke to counsel for plaintiffs, Joanne Cicala, this morning regarding this issue and she does not oppose the entry of a corrected Memorandum and Order as proposed above. If your Honor would prefer that we file an Agreed Motion requesting this relief, we will, of course, do so.

Sincerely,


Lauren O. Casazza

LOC/js

cc: All Counsel of Record (via Lexis - Nexis File and Serve)